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BAKER & HOSTETLER LLP WASHINGTON SQUARE, SUITE 1100 1050 CONNECTICUT AVE. N.W. WASHINGTON, DC 20036-5304			BLOUNT, ERIC	
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/961,104  
Filing Date: September 24, 2001  
Appellant(s): COSTA ET AL.

**MAILED**  
OCT 04 2005  
**GROUP 2800**

David C. Annis (Reg. No. 54,963)  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed August 15, 2005 appealing from the Office action mailed November 17, 2004.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments**

The appellant's statement of the status of the amendments contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

3,877,005	Apgar	4-1975
6,002,430	McCall et al	12-1999
US 2004/0088345 A1	Zellner et al	5-2004

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims (from Final Official Action):

1. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection. Below is a copy of the previous previously presented rejection mailed May 18, 2004.

#### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless –*

*(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

Claims 1-4 and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Apgar [U.S. Patent No. 3877005].

As for **claims 1, 2, and 17**, Apgar teaches a manually operated pull-station for activating an alarm system. The pull-station comprises a housing, a manually actuated lever moveable between armed and activated positions, and a photographic or video camera mounted in the housing (column 1, lines 50-60 and column 2, lines 1-2).

Regarding **claims 3, 4, and 19**, it is inherent that the pull station comprises a local memory device for storage of image data from said camera. Apgar discloses the use of a television camera. It is well known in the art that television cameras contain

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local memory wherein video images are stored on some type of media such as videotape. If there were no memory for storage of the image data, the system would not function properly because someone would have to monitor the video feed at all times in order to identify the person who activated an alarm. If continuous monitoring of the video feed must take place then a guard standing by the alarm pull station would be just as effective and the system would not be needed. As for claim 4, it is also well known in the art that videotape or other memory media are removable. One of ordinary skill in the art would recognize that if videotape were used as storage means that the videotape could be removed from the camera and the stored image data could be viewed using a VCR.

As for claim 18, Apgar teaches that the means for capturing an image captures an image when actuating means is actuated to the activated state (column 2, lines 15-18).

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 6, [14-16], 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apgar. Apgar will be relied upon for the teachings as discussed above.

As for **claims 5 and 6**, it is well known in the art that image capture devices can have several means for storage. It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to provide a suitable means for storage of the image data captured by the video recording means. The type of hardware that a user would want to view the captured images with could determine a suitable type of data storage means. For further explanation of known image storage means, see Monroe (US20030025599) background.

As for **claims 14 and 15**, it is obvious that a camera would be provided with a lens that produces the best possible field of view. Further, it is known in the art that video cameras are equipped with zoom features. It would have been obvious to adjust the zoom to a desired viewing range.

As for **claim 16**, Apgar teaches in Figure 2, that the video camera is located above the alarm lever. Pulling the alarm level would not affect the view of the camera.

Regarding **claim 20**, Apgar teaches the steps of capturing image data in the vicinity of the pull station (column 2, lines 3-9). As noted above in claim 3, it is inherent that the system record captured image data.

As for **claim 21**, it was noted in the discussion of claim 4 that if data is captured then it is obviously inherent that one would be able to retrieve the stored information so that a person activating the alarm could be identified.

Claims 7-12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apgar as applied to the claims above, and further in view of Zellner et al [US20040088345].

As for claims 7, Apgar does not teach a data output port for communicating with a peripheral communication device.

In an analogous art, Zellner et al disclose a system wherein a panic button is pressed and a camera is actuated to snap still or video pictures (page 4, paragraphs 41 and 42). Also disclosed is the use of communications ports that allows the emergency system to communicate with attached peripheral devices (page 8, paragraph 72). This paragraph also teaches that the image data can be stored on compact disc or floppy disc. It is obvious that the communications port can be used to transfer image data to the peripheral device.

It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to combine the teachings of the aforementioned inventors because a combination would result in a emergency notification that could provide and store information about the user that initiated an emergency signal.

As for claims 8-10, Zellner et al teach the use of a communications port. It is obvious that a port would be provided on the emergency station that could allow communication with a desired device. For example, if one wanted to communicate with a laptop computer, one would want a port that is compatible with a laptop computer. Likewise, if one wanted to communicate with a pda or a desktop, an appropriate port would be provided.

As for claims 11-13, Zellner et al teach that the emergency system can communicate with a peripheral device using a wire connection or a wireless connection (page 4, paragraph 43). Though Zellner et al does not specifically state that an infrared signal may be used for communication; one of ordinary skill in the art would know that infrared signals could provide suitable communication means. Infrared signals might be

ideal in an arrangement wherein the user only wanted to communicate over a certain range or only wanted to communicate with an object in the line of sight. Further, there were several well-known communications means in the art at the time of the invention by the applicant [.] [T]he use of infrared signals could be viewed merely as a matter of design.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 1-6, 14-16-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apgar [U.S. Patent No. 3877005] in view of McCall et al [U.S. Patent No. 6002430]. Apgar will be relied upon for the teachings as discussed in the previous office action.

Regarding the **claims 1-4 and 17-19**, Apgar does not specifically disclose a fire alarm pull station, which includes a camera positioned to constrain blind spots. McCall teaches the use of wide-angle cameras with a lens that has a 180-degree field of view (column 5, lines 1-5 and 22-26). This type of lens is used to eliminate blind spots. It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to combine the fire alarm pull box with a camera positioned a distance away from the pull lever with the camera for viewing an 180 degree field of view as

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taught by McCall because it would result in a fire alarm box capable of monitoring an area surrounding a pull station while minimizing regions that would be blind to a typical camera.

As for **claims 5, 6, 14, 16, 20-23**, the teachings of Apgar as described in the previous office action along with the teachings of McCall et al described above appear to meet all of the limitations as set forth by the claims.

4. **Claims 7-12, and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Apgar in view of McCall, as applied to the claims above, and further in view of Zellner et al [US20040088345].

The teachings of Apgar and Zellner from the previous office action along with the teachings of McCall as described above appear to meet all of the limitations as set forth by the claims. It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to combine the wide-angle lens taught by McCall with the devices taught by Apgar and Zellner because a combination would result in a device capable of effectively monitoring the area around an alarm box. The use of the wide-angle lens would eliminate blind spots and thus provide better results to personnel monitoring the alarm box.

#### **(10) Response to Argument**

##### **Appellant's Arguments:**

With regard to claims 1-6, 14, and 16-23, Appellant argues that the rejection of the claims under 35 U.S.C. § 103(a) is improper. Specifically, Appellant argues the neither Apgar nor McCall et al sufficiently describe or suggest alone, or in combination, a manually operated pull-station comprising a manually actuated lever and a camera configured to be mounted a distance away from the lever such that blind areas are substantially constrained.

### **Examiner's Response**

Regarding the claims, Apgar teaches a camera (28) that is mounted above a manually actuated lever (24) of a pull station. Figure 2 shows that the camera (28) is mounted a distance above the lever (24) so as to photograph a person who actuates the alarm. Examiner stated in the previous action that Apgar does not **specifically** teach that the camera is mounted so that blind areas are substantially constrained. Apgar does, however, teach that the invention is for deterring false alarms (column 1, lines 5-14 and column 2, lines 33-40). It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant that in a security apparatus, one would want to constrain blind spots as much as possible so that the system could alleviate false alarms. The McCall et al reference is used to show that it was known in the art that a camera could include a lens for capturing an 180-degree field-of-view. It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicants to modify the camera taught by Apgar to include a lens with a large field-of-view, as taught by McCall et al, if a field-of-view of up to 180-degrees was deemed

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necessary to cover the area being monitored. It is noted that different areas under surveillance would have different fields-of-view requiring varying types of camera lens known to one of ordinary skill in the art. For example, an alarm box situated towards the center of a wall may need a camera capable of monitoring a 180-degree field-of-view, whereas an alarm box situated in a corner might only need to monitor a 90-100 degree field-of-view.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Apgar teaches that there is a need for a detecting means for a fire alarm box which helps to alleviate false alarms by using a camera positioned above an actuation lever of a fire alarm box to photograph the person actuating the alarm. McCall et al teach a method for capturing an image over an 180 degree field-of-view. One of ordinary skill in the art at the time of the invention by the applicant would have recognized that a camera with a larger field of view would be ideal in preventing false alarms by capturing a photograph of the person actuating the alarm. This larger field-of-view would provide an image of the person regardless of the position of the person with respect to the camera.

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In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### **Appellant's Arguments**

With regard to claims 7-13, Appellant argues that the rejection of the claims under 35 U.S.C. § 103(a) is improper because they depend on independent claim 1.

### **Examiner's Response**

The Apgar, McCall et al, and Zellner et al reasonably appear to meet the limitations of claims 7-13. Please refer to the previous rejection as well as the Examiner's Response to independent claim 1 for a further explanation.

### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

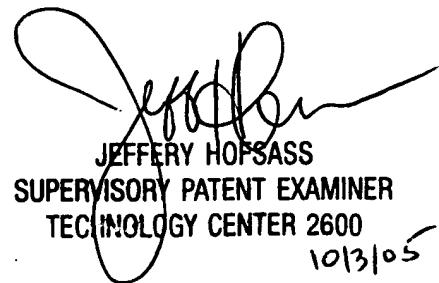
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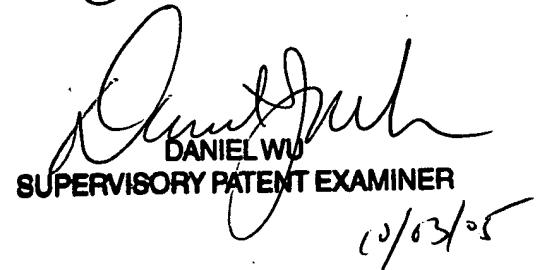
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